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CENSORSHIP OF MOVIES AND TV

by

Helen B. Shaffer

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RICHARD M. BOECKEL, *Editor*

BUEL W. PATCH, *Associate Editor*

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CENSORSHIP OF MOVIES AND TV

IN A DECISION important to all communications media, the Supreme Court on Jan. 23 sustained the authority of a Chicago police board to pass on the content of motion picture films before granting city licenses for their public showing. By thus sanctioning prior censorship, the Court seemed to be reversing a course of judicial action which during recent years had brought the authority of official censors within increasingly narrow bounds. Legal opinion differs on the degree to which the ruling in *Times Film Corp. v. Chicago* will strengthen the hand of the public censor, but the movie industry fears that one result will be a proliferation of censorship boards and a sharp increase in their activities.¹ Other communications media fear that the high court may have set a precedent under which prior restraint could be extended to their respective fields.

The *Times Film* decision came at a time of mounting protest against excesses of sex, crime and violence not only in the movies, but also on the television screen and in other mass media. The rise of juvenile delinquency, and of sex offenses and criminality in general, has given new persuasiveness to demands of the reformer that a tighter rein be put on films, TV, stage shows, books and magazines.

SUPREME COURT SANCTION OF PRIOR CENSORSHIP

The facts in the *Times Film* case differed from those considered by the Supreme Court in earlier censorship cases. The question was not whether a particular item—in this case the Italian film *Don Juan*—should be banned, but whether an agency of government could require that all films be submitted and receive official approval in advance of public exhibition.

The challenge was brought by a film exhibitor who sought a court order to force Chicago authorities to issue a license for *Don Juan*, even though the petitioner had refused to

¹ On April 6, the Maryland Board of Motion Picture Censors banned two movies and ordered cuts in a third. This was the first time in six years that exhibition of an entire movie in the state had been forbidden by the board.

comply with a city ordinance requiring submission of all films to the licensing board for its approval. The exhibitor maintained that the ordinance in question imposed a form of "previous restraint" which infringed his constitutional right of free expression under the first and 14th amendments to the Constitution.

The case highlighted the difference between two modes of public censorship—the one almost universally approved, the other widely feared. In most cases, public censorship is exercised solely by holding the purveyor of questionable matter responsible for any abuse of his right to freedom of expression. The restraint is applied by prosecution under laws forbidding dissemination of certain types of material after the forbidden act has taken place. But under previous-restraint censorship, as in Chicago, the censor passes in advance on all materials and decides what may or may not be given public circulation. Four states—Kansas, Maryland, New York and Virginia—and approximately 20 cities have movie controls of this type.

The courts in recent years have so greatly restricted the conditions under which prior restraint may be applied to published materials that newspapers, magazines and books have been considered virtually exempt from advance censorship. Publishers and distributors may, of course, still be held accountable for such abuses as the circulation of obscenity,² publication of libel, incitement to riot or violence, or disclosure of security information in time of war.

For the greater part of its history, the motion picture had not enjoyed a like degree of immunity from prior restraint but in 1952 the Supreme Court made it clear for the first time, in *The Miracle* case, that the Constitution's guarantees of free expression did extend to the pictures. From that time forward, it was generally assumed that the few remaining film censorship boards would be highly vulnerable to constitutional challenge and, because of that assumption, the 1961 decision in the Times Film case came as a shock to the movie industry.³ The Supreme Court ruled, 5 to 4, that the free-expression guarantees did not include "complete and absolute freedom to exhibit, at least

² See "Control of Obscenity," *E.R.R.*, 1959 Vol. II, p. 553.

³ The author of a treatise on censorship law observed only a year ago that "motion picture censorship by prior restraint is almost a thing of the past" and that "the motion picture industry . . . doubtless could make a frontal assault upon the remaining prior-restraint laws and ordinances and have the lot of them declared unconstitutional."—James J. Kilpatrick, *The Smut Peddlers* (1960), p. 280.

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once, any and every kind of motion picture." Chicago had the right to select its means of protecting the community against a recognized evil (dissemination of obscenity) so long as it did not place unreasonable restrictions on individual liberty in exercising that right. Thus the use of prior restraint, although circumscribed, was not forbidden.

The film company petitioned for a rehearing on the ground that the Court had decided a question different from the one brought before it. The petitioner was joined by the Motion Picture Association, the American Society of Newspaper Editors, the National Association of Broadcasters, the Authors' League of America, the American Book Publishers Council, the Society of Magazine Writers, and the Society of Magazine Photographers, all of which offered friend-of-the-court briefs urging that a rehearing be granted.

THREAT TO OTHER MEDIA OF NEW COURT DECISION

Although the Supreme Court majority specifically limited application of the Times Film ruling to motion pictures,⁴ the four dissenting justices maintained that the decision presented "a real danger of eventual censorship for every form of communication, be it newspapers, journals, books, magazines, television, radio or public speeches." The majority was chided in an opinion written by Chief Justice Warren for its failure to explain "why moving pictures should be treated differently from any other form of expression." The same position was taken by organizations representing the other media in their pleas for reconsideration—pleas which were rejected by the high court on March 30.

The American Society of Newspaper Editors said in its brief: "If such a restraint may be imposed on motion pictures, it may be extended to other forms of expression, such as newspapers, books and even speech." The National Association of Broadcasters said: "Unless a reasonable basis can be found for distinguishing movies from other media, equal protection of laws would seem to give validity to like censorship schemes for newspapers, books, magazines, radio and television." The broadcasters noted that "much of what is shown on television is either filmed or taped," including movies subject to state and local censorship.

⁴ The Court said it was "dealing only with motion pictures" which were not necessarily subject to "the precise rules governing any other particular method of expression."

JUDICIAL VIEW OF MOVIES' "CAPACITY FOR EVIL"

The 1961 decision reaffirmed a principle justifying stricter censorship of movies than of other communications media. Quoting an earlier opinion, the Court held that "capacity for evil . . . may be relevant in determining the permissible scope of community control." The lower courts have repeatedly sustained the use of stricter controls over movies because of the extraordinary influence of so vivid and popular a medium. In one of the earliest cases (*Block v. Chicago*), the Illinois Supreme Court upheld a Chicago censorship ordinance, adopted in 1907, because of the movies' peculiar power to do harm. The presence of children at the "flickers" was held to justify use of sterner controls than might be applied to the live theater, attended mostly by adults.⁵

The U.S. Supreme Court placed motion pictures in a special category among communications media in a 1915 decision which became the guide for movie censorship decisions over the next three decades. Deciding a case brought by an exhibitor who sought to overthrow censorship laws adopted in 1913 by Kansas and Ohio, the Court held that movies could not receive the same protections of free expression as those accorded the press. "The exhibition of motion pictures is a business pure and simple, originated and conducted for profit, like other spectacles, not to be regarded . . . as part of the press of the country or as organs of public opinion." Movies were "useful and entertaining . . . but capable of evil, having power for it, the greater because of their attractiveness and manner of exhibition."⁶

Subsequent decisions extended this rule to newsreels and documentaries.⁷ This position was maintained until 1948 when the Supreme Court rendered the historic decision that severed the business of producing movies from the business of exhibiting them. Almost as an aside to the main issue of anti-trust violation, the opinion stated: "We have no doubt that moving pictures, like newspapers and radio, are included in the press whose freedom is guaran-

⁵ The court upheld the censor's ban on *The James Boys* and *Night Riders* on the ground that the pictures contained "malicious mischief, arson and murder" which would have evil effects on young viewers.

⁶ *Mutual Film Corporation v. Industrial Commission of Ohio*, 236 U.S. 230 (1915).

⁷ *Pathe News* sought exemption for newsreels from New York's censorship law in 1922, but the state supreme court held that newsreels were a "spectacle," hence to be treated differently from newspapers.

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teed by the first amendment."⁸ Four years later, in *The Miracle* case, the Court spoke directly on this issue: "Expression by means of motion pictures is included within the free speech and free press guarantees of the first and 14th amendments. . . . The importance of motion pictures as an organ of public opinion is not lessened by the fact that they are designed to entertain as well as to inform."⁹

EROSION OF LEGAL GROUNDS FOR FILM CENSORSHIP

Although the Times Film decision gave the use of prior restraint through film censorship boards a new lease on life, other decisions have greatly limited the range of prior censorship powers. In the early days of the motion picture industry, the courts usually upheld the censors, who had been given broad powers to say what the public should be allowed to see on the screen. A recent study found only two instances during the 1920s in which a censor's ruling was overthrown: in 1929 when the New Jersey Court of Chancery rescinded a Newark censor's ban on *The Naked Truth*, a film on venereal disease; in 1928 when the Ohio Supreme Court threw out a ban on films of the Dempsey-Tunney prize fight. "Otherwise state and local censors swept the field."¹⁰ Over the past decade, however, the trend had been sharply to limit the grounds on which a movie or other communications product may be banned.

In *The Miracle* case in 1952 the Supreme Court forbade the banning of movies on the ground of sacrilege because "the state has no legitimate interest in protecting any or all religions from views distasteful to them." The banning of *Pinky* in Texas, on the ground that the picture was "of such character as to be prejudicial to the interest of the people," was overruled in the same year because the standard applied by the censor had been too vague to meet the constitutional test.¹¹ The Ohio Supreme Court in 1953 overruled the state censor's ban on *Native Son*, proscribed as a film which would "contribute to racial misunderstanding," but upheld the ban on *M* as a picture which would encourage criminality. But the U.S. Supreme Court in 1954 reversed the ban on *M* and in the same year overthrew a New York ban on *La Ronde*, which had been condemned as immoral. The following year, the Court over-

⁸ *United States v. Paramount Pictures, Inc.*, 334 U.S. 131 (1948).

⁹ *Joseph Burstyn, Inc. v. Wilson*, 343 U.S. 495 (1952).

¹⁰ James J. Kilpatrick, *op. cit.* (1960), p. 174.

¹¹ *Gelling v. Texas*, 343 U.S. 960 (1952).

turned a Kansas ban on *The Moon Is Blue*, a sex comedy.

By this time the grounds on which a censor could legally justify the banning of a movie had become so restricted that, when the New York Court of Appeals reversed a state censor's ban on *Garden of Eden*, a nudist colony film, New York Judge Marvin R. Dye recommended that the state law be repealed because "it has ceased to serve any practical or useful purpose." In 1959 a federal court threw out a section of the Chicago ordinance under which showing of *Desire Under the Elms* to persons under 21 had been prohibited, because this was "a patent invasion of the right to freedom of speech." In the same year the Supreme Court overruled New York censorship of *Lady Chatterley's Lover* which had been banned for advocating immoral behavior (adultery); the high court held this was censorship "to prevent the exhibition of a motion picture because that picture advocates an idea" and hence the censorship "struck at the very heart of constitutionally protected liberty."¹²

Censorship: Official and Non-Official

MOTION PICTURES and their sister medium, television, are at present subjected to very little direct official censorship. Prior restraint operates chiefly through self-governing codes of morality and indirectly through pressures brought by private groups concerned with the moral tone of popular entertainment. Despite these influences for moderation, the industry today exercises greater latitude in choice of subject matter and dialogue, and in presentation of sex situations, than at any time in its history. Television is more circumspect on sex, language and subject matter, but is relatively unrestrained in its use of crime and violence.

Proposals for some kind of federal control over the film industry are regularly introduced in Congress but without substantial support. In recent years films have seldom been banned outright by state or local authorities.

A recent review of censorship activity notes that in the year ended last June 30, the New York state board banned

¹² Kingsley International Pictures Corp. v. Regents, 360 U.S. 684 (1959).

only one movie and ordered cuts in only 35 out of 1,094 films examined.¹³ A survey two decades earlier had shown that in the year ended June 30, 1938, the New York board had rejected 23 films in toto and had ordered cuts in 110 out of 1,955 pictures reviewed.¹⁴ Most of the municipal censors have been equally moderate—as compared with their wide-ranging activities of earlier years.

Although Little Rock empowers its censorship board to ban any movie (book, magazine or play) which "violates the public sense of decency, morals and propriety, or which might lead those under legal age into delinquency," the board in recent years has banned only one book and one movie, *Lady Chatterley's Lover* in each case. The Tacoma Censor Board, created in 1954, has banned only one movie, *The Outlaw*. The single action taken by the Mayor's Advisory Committee on Censorship in Oklahoma City over the past 12 years was to delete a scene from an Ingrid Bergman picture. Other city censorship agencies which do little actual censoring are those of Detroit, Portland (Ore.), Sacramento and San Jose.

Censors in Atlanta, Evanston and Memphis are more active than most. Evanston recently banned two foreign films, *Hiroshima Mon Amour* and *Never On Sunday*. Memphis restricted the latter film to exhibition in a theater which admits no person under 16. Over a two-year period, the Atlanta censor refused permits to exhibit *Fire Under Her Skin*, *Fruits of Summer*, *Nana*, *Cop Hater*, *The Flesh Is Weak*, *Adam and Eve*, *Teenage Doll* and *Smiles of a Summer Night*. Among deletions ordered in other films were close-ups of a bullfight in *The Night the Heavens Fell*; Negro-white scenes in *The Defiant Ones*, *Green-Eyed Blond* and *Mark of the Hawk*; close-ups of animal births in *Passionate Summer* and *Wild Is the Wind*, and several scenes of nudity in other films.

SELF-POLICING SYSTEM OF MOTION PICTURE INDUSTRY

The motion picture industry has sought for three decades to keep the public censor at bay by voluntarily submitting its products to the judgment of a review board of its own. The Motion Picture Production Code, which sets the standards of the voluntary system, was formulated in 1930

¹³ James J. Kilpatrick, *op. cit.*, p. 280.

¹⁴ Morris L. Ernst and Alexander Lindey, *The Censor Marches On* (1940), p. 81.

at a time of widespread protest against licentiousness and crime on the screen.

Over the years the code system has been criticized on the one hand for being ineffectively administered, with the result that many pictures which violate the code have been approved, and on the other hand for being so restrictive as to prevent the industry from dealing honestly with real life situations. The code remained relatively unchanged until a decade ago when industry leaders began to press for liberalization. Competition from television had cut movie attendance and producers maintained that their industry should be freed of fetters which prevented it from producing the kind of "adult films" that would not be shown on the home-viewed screen. Among those who sought code revision was the veteran producer Samuel Goldwyn who said that unless the code was "brought reasonably up-to-date, the tendency to bypass it, which has already begun, will increase."¹⁵

When a revised code was issued in December 1956, the chief innovations were removal of the total ban on dealing with drug addiction, drinking and miscegenation. At the same time new restrictions were placed on blasphemy, mercy killing, details of physical violence, and insults to races, religions and nationalities. The code's sex sections were little changed. The code in use today establishes three general principles:

No picture shall be produced which will lower the moral standards of those who see it . . . the sympathy of the audience shall never be thrown to the side of crime . . . or sin.

Correct standards of life, subject only to the requirements of drama and entertainment, shall be presented.

Law—divine, natural or human—shall not be ridiculed, nor shall sympathy be created for its violation.

Many of the specific applications of the code's principles are qualified by loophole phrases. The code provides, for example, that methods of crime shall not be "explicitly presented"; murder must "be held to a minimum" and not glamorized; "suicide, as a solution of problems occurring in the development of screen drama, is to be discouraged unless absolutely necessary for the development of the plot." Narcotic addiction may not be portrayed if it tends to encourage use of drugs or emphasizes profits from the traffic.

¹⁵ Quoted in "Revising the Code," *Commonweal*, Jan. 22, 1954, p. 392.

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The section on sex orders that "the sanctity of the institution of marriage and the home shall be upheld" and no film shall imply that "casual or promiscuous sex relationships are the accepted or common thing." Illicit sex relations must not be "explicitly treated" or justified. "Scenes of passion" are allowed only where "definitely essential to the plot." Lustful embraces are banned and "in general, passion should be treated in such a manner as not to stimulate the baser emotions." Seduction or rape "should never be more than suggested," never treated as comedy. Similar rules apply to abortion, the word itself being forbidden.

Other rules forbid use of vulgar expressions and double entendre, dances suggesting sexual action, blasphemy, profanity (with the exception of "hell" and "damn" if dramatically valid and used with moderation) and obscenity in word, gesture, reference, song, joke or suggestion "even when likely to be understood by only part of the audience." Complete nudity, even in silhouette, is forbidden unless used in a documentary portraying life in a land where nudity is acceptable and when such scenes "are not in themselves intrinsically objectionable." "Salacious, indecent, profane or vulgar" titles are forbidden. A separate code establishes similar standards for newspaper and other advertising of pictures.

LAUNDERING OF LURID NOVELS AND PLAYS FOR SCREEN

Producers of American films, with few exceptions, voluntarily submit to the authority of the Production Code Administration of the Motion Picture Association and nearly all American-produced films carry the code seal of approval.¹⁶ Foreign films shown in the United States are rarely submitted for code approval, but are subject to the limited powers of the customs authorities to bar entry of obscene materials.

The American producer first submits a script which the code authorities may either approve, disapprove or approve on condition that certain changes be made. If the producer does not agree that the recommended changes are desirable, he confers with code administrators in an effort to reach a meeting of minds. If this does not result, the producer may shoot the picture as he wishes, but is more likely to shoot the disputed scenes two ways, trusting to

¹⁶ *The Moon Is Blue*, *I Am a Camera* and *The Man With the Golden Arm* were three successful movies which did not carry the code seal.

a change of heart when code officials see the finished product. If the film is disapproved, the producer can appeal to a review board, consisting of the presidents of the major distributing companies, six theater exhibitors, four independent film producers, and the president of the Motion Picture Association. The board's verdict is final. Lack of code seal approval will not bar exhibition of the picture, but few American producers have risked releasing a picture without it.

Code authorities extend help to producers in the difficult task of transmuting certain popular novels and Broadway plays into acceptable films. When the first script for adaptation of *From Here to Eternity*, a novel notable for its use of brutality, crude language and frankness on sex, was first submitted, the code reviewers suggested 17 changes. Eventually 16 separate script revisions were prepared before code approval was obtained.

Similar treatment was given *Gigi*, adapted from a novel about the preparation of a teen-age French girl for a career as courtesan. The movie version not only carried the code seal but was approved for adult viewing by the Catholic Legion of Decency and the Daughters of the American Revolution, and also was found suitable for moviegoers past the age of 12 by the National Congress of Parents and Teachers.

Suddenly Last Summer, adapted from a play which dealt with homosexuality and incest, was made acceptable by softening the implications of these aberrations. Discussing this picture, Motion Picture Association President Eric Johnston said: "I am certain that people who knew nothing about homosexuality at all would never read homosexuality into this picture as it was finally approved. But if you knew about homosexuality and tried to account for the actions of this mother . . ., maybe you would say, 'Well, this is a case of homosexuality.'" ¹⁷

Peyton Place, a lurid novel that included rapes, seductions, illegitimate pregnancies, abortions and murder, was made acceptable for the movies after six exchanges of comment and suggestion between producer and code authorities; the Legion of Decency found the movie in final form unobjectionable for adolescents. Similar cleansing was

¹⁷ Testimony, House Post Office Subcommittee on Postal Operations, Feb. 2, 1960.

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given *Cat on a Hot Tin Roof*, which in its original form was described by one critic as "the sexiest, possibly the dirtiest and probably one of the best plays of the season"; the Legion okayed the movie version for adults only.

Happy Anniversary, a comedy which hinges on the disclosure that a married couple had been intimate before marriage, was made acceptable by adding, in the words of the production code director, "a clear statement, from one of the parties involved, that premarital sex was wrong."¹⁸ The producer objected to the change but the appeal board upheld the code reviewer and the additional dialogue was shot and inserted in the film.

SELF-CENSORSHIP PRINCIPLES OF BROADCASTERS' CODE

Unlike the motion picture, which has waged a continuing war against official censorship from its earliest days, television and radio have never been subjected to direct, formal censorship by public agencies. The law which provides for federal regulation of broadcasting specifically forbids censorship by the Federal Communications Commission.¹⁹ The commission has power to withhold a license from a broadcasting station if the broadcaster has not met F.C.C. standards of providing public service, but this power is virtually never employed. However, by the very nature of the conditions under which television operates, it has less freedom in departing from the proprieties than the movies.

The broadcasting industry applies a form of self-regulation which attempts to assure decency in programming and advertising. Approximately half of the nation's 700 commercial television stations subscribe to the television code of the National Association of Broadcasters, first adopted in 1952. The latest version of the code, issued last year, sets forth a number of general principles akin to those of the movie code; even the words used in some sections are similar. The major differences are that the TV code asserts more positively the responsibility of the medium to serve educational and cultural needs and there is more emphasis on abiding by standards of good taste.

¹⁸ Geoffrey Shurlock, testimony, House Post Office subcommittee, Feb. 2, 1960.

¹⁹ Section 326 of the Communications Act of 1934 states "Nothing in this act shall be understood or construed to give the commission the power of censorship over the radio communications or signals transmitted by any radio station and no regulation or condition shall be promulgated or fixed by the commission which shall interfere with the right of free speech." See "Regulation of Television," *E.R.R.*, 1959 Vol. II, pp. 962-963.

Profanity, obscenity, vulgarity and even ordinary words which have come to acquire "undesirable meanings" are forbidden. The code states:

Respect is maintained for the sanctity of marriage and the value of the home. Divorce is not treated casually nor justified as a solution for marital problems. Illicit sex relations are not treated as commendable. Sex crimes and abnormalities are generally unacceptable. . . . Drunkenness and narcotic addiction are never presented as desirable or prevalent. . . . The use of liquor in program content shall be de-emphasized. . . . Criminality shall be presented as undesirable. . . . The presentation of techniques of crime in such detail as to invite imitation . . . [and] the exposition of sex crimes will be avoided. . . .

The costuming of all performers shall be within the bounds of propriety and shall avoid such exposure or such emphasis on anatomical detail as would embarrass or offend home viewers. The movements of dancers, actors, or other performers shall be kept within the bounds of decency. . . . Camera angles shall avoid such views of performers as to emphasize anatomical details indecently. . . . The use of locations closely associated with sexual life or with sexual sin must be governed by good taste and delicacy.

Special rules for the protection of child viewers require that daytime programs foster "the commonly accepted moral, social and ethical ideals characteristic of American life," reflect "respect for parents, for honorable behavior and for the constituted authorities," exclude references to child kidnaping, avoid material which is "excessively violent or would create morbid suspense." A separate code on TV commercials provides not only the standard bans on fraudulent and misleading advertising, but also forbids scenes, sounds and dialogue which might offend good taste, particularly in regard to advertising of depilatories and remedies for internal ailments.

INFLUENCE OF PRIVATE GROUPS ON CONTENT OF FILMS

The mass entertainment industries are attentive to the standards of private reviewing agencies and usually are careful not to offend the sensibilities of minority groups. Chief among the private organizations exerting indirect influence on movies is the Roman Catholic Legion of Decency, founded in 1934 at a time when the new industry code was being widely disregarded.

The Legion in effect put the teeth of economic sanctions into voluntary observance of the industry code. It drew up a personal pledge not to attend any showing of an immoral or indecent movie and not to patronize theaters which

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run such pictures regularly. The pledge is offered annually to Catholics in every parish church. Although communicants are not compelled to accept it, a clerical authority has stated that the pledge "does no more than specify . . . an obligation that Catholics . . . would be faced with, even if there were no Legion of Decency."²⁰ The Legion evaluates current releases as a guide to moviegoers and many theaters, including most of the big chains, will not exhibit a picture which has received Legion condemnation.

The movie industry's own code cautions against unsympathetic portrayals of sectarian ceremonies or members of the clergy, and use of offensive words to denote characters of particular race, nationality or religious belief. Representatives of church and other groups are sometimes asked to advise movie-makers on questionable scenes, as a precaution against giving offense. Church influence is credited with demoting the chief character of *Elmer Gantry*, who was a charlatan clergyman in the Sinclair Lewis novel, to the status of a divinity student. Many regard the influence of pressure groups a form of censorship. A spokesman for the Legion has written: "It cannot be denied that from time to time the Legion is asked . . . by producers to give an opinion on a script in process; changes have occasionally been made when a producer has come for advice. But this is certainly no . . . prior censorship."²¹

SENSITIVITY TO VIEWS OF SPECIAL GROUPS

Exhibitors often reject films likely to arouse indignation among certain groups in the local population. A leading critic recently expressed regret that many of the finer films dealing with race relations were not shown in the South or were confined in some communities to small "art" theaters where they did not attract large audiences.²² Television is even more sensitive to the feelings of special groups. Sponsors are anxious that no offense be given to any segment of the potential market for their products. The much-criticized program, *The Untouchables*, recently took account of a threat of boycott of the sponsors' products by Italian-Americans who resented the frequent depiction of criminals with Italian names.

²⁰ Harold C. Gardiner, *Catholic Viewpoint on Censorship* (1958), p. 91.

²¹ *Ibid.*, p. 106.

²² Bosley Crowther, *New York Times*, April 2, 1961, Section 2, p. 1.

Dilemma Posed by Conflicting Demands

PROTESTS against exploitation of sexual immorality, crime and violence in the movies and on TV have risen in volume during recent years in step with the progressive moderation of official and non-official censorship. Too many shows are said to violate standards of the self-governing codes of the motion picture and television industries. Particular concern is being expressed over the influence of their output on children and adolescents.

The Senate Judiciary Subcommittee on Juvenile Delinquency, which first looked into the problem in 1956, is preparing another investigation of the influence of movies and TV on youngsters. Chairman Thomas Dodd (D Conn.) announced the new probe in early March, immediately after receiving a report from the National Council on Crime and Delinquency which criticized both media for offering children "too large quantities of material which stimulates aggressiveness and sexual fantasies."²³

The council's report said the movie and television industries should "correct the considerable gap between their established codes . . . and the extent of horror, crime, violence and sex programs." It urged the Federal Communications Commission to monitor programs and to use "more diversified and flexible sanctions" against violators of code dicta. Further it recommended establishment of a national commission on the two media with either private or government support.

During cross-country hearings in 1959 on use of the mails for dissemination of obscenity, the House Post Office Subcommittee on Postal Operations received so many complaints about "over-dramatization of sex" in movies and movie advertising that it called industry leaders to testify on the problem. Subcommittee Chairman Kathryn E. Granahan (D Pa.) deplored the prevalence of "sexual immorality, sex crimes, perversion, nudity, brutality and extreme violence."

The Legion of Decency announced on Nov. 21, 1960, that 25 per cent of the 275 films it had reviewed during the year

²³ The report comprised the findings of a special conference held in New York last June with financial support from the Ford Foundation.

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were either condemned or found objectionable in part; this compared with only 15 per cent of the films reviewed in 1959. While the objectionable films in the earlier years were simply cheap, tawdry pictures, the objectionable films in 1960 included major Hollywood productions.

A week later the Roman Catholic Episcopal Committee for Motion Pictures, Radio and Television issued a statement deploring the movie industry's "newfound predilection for pornographic and perverted subject matter." The committee of bishops objected not only to "wanton and immoral themes . . . dissolute standards of moral behavior" and "pernicious philosophies" but also to the "sensational presentation" of religious themes in recent movies. The industry was asked to "desist from that hypocrisy and duplicity whereby it self-righteously hides from public censure behind a code which is presently largely ineffective."

BROADENING BASE OF ATTACKS ON FILMS

Among Protestant organizations, the lead in the attack has been taken by the West Coast branch of the Broadcasting and Film Commission of the National Council of Churches, whose director delivered a broadside attack on the movies shortly after Soviet Premier Nikita Khrushchev had commented on the movements in a scene from *Can Can* which had been staged for his benefit in Hollywood. The Protestant body then ordered a study of the movies and TV which resulted in a report, released last June, that condemned both their "pathological preoccupation with sex and violence" and their repeated presentation of certain stereotypes which tended to weaken respect for parents and other figures of authority.

The base from which the attacks are launched appears to be broadening. Dr. Benjamin Spock, the country's most widely read child guidance specialist, recently deplored the effect on children of "sordid and repulsive" films. *Variety* has reported mounting evidence of a "rebellion in middle-class America against the assumptions [by authors and producers] . . . that only the neurotically sick are interesting." The article said: "There is much more to the dispute over film content than a struggle between prudery and liberalism, village rednecks and urban intellectuals. The point is whether too many films are out of

balance, peddling too many sick scripts for the digestion of a healthy nation."²⁴

MARKET FOR "ADULT" FILMS; CODE-FREE IMPORTS

Leaders of the motion picture industry deny that producers of American films have departed from established code standards. In a reply to Catholic attacks, the Motion Picture Association said last Nov. 30 that the bolder treatment of sex and the broader range of subject matter in today's films represented an evolution toward more adult pictures "dictated by the American audience."

In testimony before the House Post Office subcommittee on Feb. 20, 1960, M.P.A. President Eric Johnston said there was a prevalent misconception that the industry's code was supposed to guarantee the suitability of all films for the entire family.

It was never the purpose or the function of the code [he said] to make every picture suitable to every person—man, woman or child—from 6 to 16 to 60. . . . To accomplish this sort of common leveling would destroy the motion picture . . . lay waste our freedom to communicate by imposing a system of thought and idea control that even the totalitarians have not been able to devise.

To eliminate sex and violence from the films would be to eliminate basic elements in the "human story." The code was intended only to assure that these subjects be treated "reasonably and responsibly."

Some producers claim that Hollywood receives the blame for the more outspoken foreign films which are rarely submitted for code approval. Among films condemned by the Legion of Decency last year three were American-made and five were foreign-made—1.3 per cent of the former against 9.4 per cent of the latter. A representative of a foreign film distributors organization has justified the failure to seek code approval on the ground that the imported films originate in countries with different standards and that to alter them to meet code requirements might infringe their essential character.²⁵ He saw no danger of obscenity in foreign films because they must pass through customs and their exhibitors are subject to state and local obscenity laws. The 100 to 150 foreign films imported

²⁴ *Variety*, March 1, 1961, p. 1.

²⁵ Richard Brandt (governor, Independent Film Importers and Distributors of America, Inc.) testimony, House Post Office subcommittee, Feb. 3, 1960.

Censorship of Movies and TV

annually are usually shown in small theaters catering to sophisticated audiences, which comprise about four per cent of total movie attendance; their advertising is usually restrained and children and adolescents are not apt to be attracted to them.²⁶

Recent toughening up of government censorship in France and Italy may modify the "adult" character of some of the imported films. The French government recently established a film-censoring Commission of Control, made up of representatives of the industry and leading professions, but the commission ran into trouble when the movie industry refused to participate because its representatives would be outnumbered.

CLASSIFICATION OF FILMS FOR ADULT-CHILD VIEWING

With the threat of stricter censorship rising anew, support is growing for an industry system of classifying movies to keep young people from attending the franker "adult" shows. Movies are already being classified by private film-reviewing agencies. The Legion of Decency reviews all movies, foreign and domestic, released for showing in the United States, classifying them as: Class A, I: Morally unobjectionable for general patronage; Class A, II: Morally unobjectionable for adults and adolescents; Class B: Morally objectionable in part for all; Class C: Condemned. A separate classification is sometimes applied to films which are conditionally approved if some provision is made to protect the immature or the uninformed against wrong conclusions. This classification was given *The Case of Dr. Laurent*, a film on natural childbirth, which was considered unsuitable for showing in places of entertainment.

The Film Estimate Board of National Organizations, made up of representatives of the Daughters of the American Revolution, National Congress of Parents and Teachers, General Federation of Women's Clubs and eight other groups, has performed a similar service of classification since 1922. The movie chairman of each organization prepares reviews of current films which are published in the organizations' periodicals. Every month a composite of the reviews is published in the board's own periodical, *Joint Estimates of Current Entertainment Films*, known in the trade as the Green Sheet, which classifies movies

²⁶ A municipal jury in Dayton, O., on Feb. 5, 1960, convicted a theater manager of showing a French film, *The Lovers*, which was held to be obscene.

according to their suitability for adults, mature young people, young people, family, and children unaccompanied by an adult. The industry cooperates with these reviewing agencies, offering them advance screenings and underwriting the printing and partial distribution of the Green Sheet.

Legislation has been introduced in a number of states this year to require theater owners to classify movies as suitable or unsuitable for various age groups.²⁷ Some theaters, especially the "art" theaters, set a minimum age for admission. An officer of the Theater Owners of America recently began to use Green Sheet ratings in advertising of movies shown in his chain of theaters in California and the T.O.A. appears to be moving toward a recommendation that all members follow this practice. The Motion Picture Association, however, continues to maintain its long-standing opposition to classification. It asserts that the "adults only" tag simply lures the prurient to the theater. Some movie executives say box-office is hurt by the designation "family film."

The classification system is widely used in Europe. Beginning in mid-March, France extended the system to television. After receiving complaints from parents about the erotic content of recent TV shows, the State Television Network introduced a small white square which appears in a corner of the screen during "adults only" shows. While no such device has been suggested for American TV, the new president of the National Association of Broadcasters, Leroy Collins, in an address before the Radio and Television Executives Society of New York on March 15, recommended "a more concerted effort . . . to eliminate . . . excessive violence . . . projected without regard to plot." He suggested that the industry cooperate in developing "a workable set of guidelines" to achieve this objective. Robert A. Sarnoff, chairman of the National Broadcasting Co., suggested to the F.C.C. last year that it give "official blessing" to the code of the TV industry and consider a station's degree of adherence to the code when acting on license renewal applications.

²⁷ A movie classification bill was passed by one house of the New York legislature in March but failed in the other. Jerry Wald, a leading independent film producer, has observed that "a system of compulsory classification . . . is only one step removed from censorship itself."—Jerry Wald, "Movie Censorship: The First Wedge," *Saturday Review*, April 8, 1961, p. 54.

